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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 NORTHWEST ADMINISTRATORS,
10 INC.,

11 Plaintiff,

12 v.

13 SANTA CLARITA CONVALESCENT
14 CORPORATION, *et al.*,

15 Defendants.

Case No. C17-1001RSL

ORDER GRANTING MOTION FOR
SUMMARY JUDGMENT AGAINST
SANTA CLARITA

16 This matter comes before the Court on “Plaintiff’s Motion for Summary Judgment
17 and Memorandum in Support Against Santa Clarita Convalescent Corporation.” Dkt.
18 # 30. Santa Clarita is an employer who participated in plaintiff’s multiemployer benefits
19 plan under the Employee Retirement Income Security Act (“ERISA”). In 1980, Congress
20 amended ERISA to guard against the risk that an employer’s withdrawal from a
21 multiemployer benefit plan would leave the plan underfunded. The Multiemployer
22 Pension Plan Amendments Act (“MPPAA”) allows plans, such as plaintiff, to impose
23 withdrawal liability on employers who pull out of a multiemployer plan in an amount
24 equal to a proportionate share of the employer’s unfunded vested benefits. Central States,
25 Se. and Sw. Areas Pension Fund v. Schilli Corp., 420 F.3d 663, 667 (7th Cir. 2005).

26 Plaintiff has provided evidence that Santa Clarita withdrew from the
multiemployer benefits plan in January 2015. In March 2015, plaintiff received an email

1 from Henry Kim, who identified himself as the President/managing member of 23801
2 Newhall Avenue, LLC. Mr. Kim notified plaintiff that, “[e]ffective January 5, 2015, there
3 has been a change of ownership at Santa Clarita Convalescent Hospital. The legal entity
4 name is 23801 Newhall Avenue, LLC. The dba is Santa Clarita Post Acute Care Center . .
5 . Please email all correspondence to 23801 Newhall Ave., Newhall, CA 91321.” Dkt.
6 # 31-2.

7 In August 2016, plaintiff sent a certified letter to the address provided by Mr. Kim
8 notifying Santa Clarita that the Trust Fund had assessed a withdrawal liability in the
9 amount of \$69,731.80 and demanding payment on a specified schedule. Santa Clarita
10 made no response: it did not request a review of the Trust Fund’s determination, make the
11 specified periodic withdrawal liability payments, or initiate arbitration. Plaintiff sent
12 notification and demand letters to three other addresses related to Santa Clarita in
13 September 2016, November 2016, and April 2017. The first two were returned to plaintiff
14 unclaimed. The third was not returned, but it was apparently sent via first-class mail to
15 the address provided by Mr. Kim in his March 2015 email. Santa Clarita made no
16 response. Plaintiff filed this lawsuit on July 3, 2017, and served Santa Clarita at both the
17 Newhall Avenue address and through its registered agent.

18 Plaintiff seeks a summary determination that Santa Clarita is liable for the
19 withdrawal liability payments that were assessed, liquidated damages, interest, and
20 attorney’s fees and costs. Santa Clarita asserts failure to provide notice of withdrawal
21 liability as an affirmative defense (Dkt. # 21 at 6) and requests that the summary
22 judgment motion be denied as premature under Fed. R. Civ. P. 56(d) so that it may pursue
23 discovery from Mr. Kim and certain union representatives regarding “notice and payment
24 issues.” Dkt. # 32.

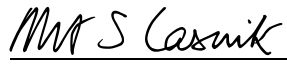
25 Nothing in the record or in defendant’s Rule 56(d) request indicates that Santa
26 Clarita made any payments, much less that discovery regarding payments will assist it in

1 opposing plaintiff's motion. As for the notice issue, even if the Court assumes that the
2 four letters sent by plaintiff all went astray, service of the complaint in this action
3 provided Santa Clarita with sufficient notice under the MPPAA. See Nw. Adm'rs, Inc. v.
4 N. Distrib., LLC, 2011 WL 252946, at * 2 (W. D. Wash. Jan. 26, 2011) (collecting cases
5 holding "that the filing and service of a civil complaint constitutes[s] sufficient notice
6 under the MPPAA"). The complaint in this case met the statutory notice requirements: it
7 notified Santa Clarita of the amount of the withdrawal liability, the schedule for
8 payments, and that payment was sought. See 29 U.S.C. § 1399(b)(1).

9 "Congress intended that disputes over withdrawal liability would be resolved
10 quickly, and established a procedural bar for employers who fail to arbitrate disputes over
11 withdrawal liability in a timely manner." Bowers v. Transportacion Maritima Mexicana,
12 S.A., 901 F.2d 258, 263 (2nd Cir. 1990) (quotation marks omitted). Despite the notice
13 provided by service of the complaint in this matter, Santa Clarita has not requested review
14 of the liability determination (29 U.S.C. § 1399(b)(2)) or sought arbitration (29 U.S.C.
15 § 1401(a)). Nor has Santa Clarita made payments toward the withdrawal liability, which
16 were due "notwithstanding any request for review or appeal of the determinations of the
17 amount of such liability or of the schedule" for payments. 29 U.S.C. § 1399(c)(2). None
18 of these facts is disputed. The Court therefore finds as a matter of law that Santa Clarita
19 has waived its ability to contest the assessment or amount of the withdrawal liability. See
20 Teamsters Pension Trust Fund v. Allyn Transp. Co., 832 F.2d 502 (9th Cir. 1987)
21 (affirming district court decision that failure to initiate arbitration within the statutory
22 period resulted in liability as calculated by the trust fund); Nw. Adm'rs, 2011 WL
23 252946, at *2. In these circumstances, discovery will not assist defendant in mounting an
24 opposition to plaintiff's motion.

1 For all of the foregoing reasons, the Court finds that Santa Clarita is liable for the
2 withdrawal liability amount assessed, plus liquidated damages, interest from the first
3 scheduled payment date after the complaint was served, and fees and costs. Plaintiff's
4 motion for summary judgment (Dkt. # 30) is GRANTED and Santa Clarita's Rule 56(d)
5 request (Dkt. # 32) is DENIED. Judgment will not be entered at this time because
6 plaintiff has asserted claims against 23801 Newhall Avenue, LLC, and has not shown that
7 a partial judgment is warranted under Rule 54(b).

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9 Dated this 20th day of April, 2018.

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11 Robert S. Lasnik
12 United States District Judge
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